

AGENDA



Thursday, May 17, 2007

**Austin Water Utility
RECOMMENDATION FOR COUNCIL ACTION****Item No. 3**

Subject: Approve an ordinance authorizing negotiation and execution of an amendment to the existing Wastewater Cost Reimbursement Agreement with Lennar Buffington Zachary Scott, L.P., to increase the amount of City cost reimbursement for construction of an 18-inch and 30-inch wastewater main and appurtenances to provide wastewater service to the Zachary Scott Tract located in the south corner of the Old Lockhart Highway and Bradshaw Road intersection for a new total actual construction cost for wastewater improvements not to exceed \$3,696,000, and for the professional services costs for engineering, design and project management only for the original design, the aerial crossing design and the new wastewater tunnel alignment in an amount not to exceed \$774,999, and cost reimbursement of the pump and haul operations in an amount not to exceed \$150,000, increasing the original Council approval amount by \$3,287,259 for a new overall total amount not to exceed \$4,620,999; and waiving the requirements of Section 25-9-63 of the City Code relating to amount of cost reimbursement, waiving the requirements of Section 25-9-67 of the City Code relating to the schedule for cost reimbursement payments.

Amount and Source of Funding: Funding in the amount of \$3,287,259 is included in the Fiscal Year 2006-2007 Capital Improvement Budget of the Austin Water Utility.

Fiscal Note: A fiscal note is attached.

For More Information: Seyed Miri, P.E. 972-0202 and Denise Avery 972-0104

Boards and Commission Action: To be reviewed by both the Water and Wastewater Commission and the Environmental Board on May 16, 2007.

Prior Council Action: Originally approved by Council on 10/23/2003, Ordinance No. 031023-7.

The Zachary Scott Tract is a proposed 975 lot single-family development located on approximately 272 acres of land in the south corner of the Old Lockhart Highway and Bradshaw Road intersection (the "Property"), currently inside the corporate limits of Austin, which is within the Desired Development Zone and Rinard Creek Watershed. The City Council approved the negotiation and execution of a cost reimbursement agreement with Development Alliance of Texas, L.L.C., on October 23, 2003, with City cost reimbursement not to exceed \$1,333,740 for the actual wastewater construction costs ("hard costs"). After the Cost Reimbursement Agreement was executed by Development Alliance of Texas, L.L.C., on February 17, 2005, it was assigned to Lennar Buffington Zachary Scott, L.P. ("Lennar Buffington").

The proposed original wastewater main improvements were based on conceptual engineering and planning documents to include approximately 850 feet of 18-inch gravity wastewater main, 2,200 feet of 24-inch gravity wastewater main and 1,100 feet of 15 or 18-inch gravity wastewater main from the existing Onion Creek Wastewater Treatment Plant southeast along the fairway of the Onion Creek Golf Course and under Rinard Creek to the Property. During the actual design of the proposed wastewater main, at the request of City environmental staff, the alignment was changed to move further into the fairway of the golf course and farther away from Critical Environmental Features identified during site visits. This change in alignment created a project that required many sections of the wastewater main to be bored underground in order to avoid damage to trees and identified Critical Environmental Features.

The City opened bids for the originally designed wastewater improvements on January 19, 2006, and the apparent low bidder was \$2,415,394 higher than the total 2003 Council authorization approved for hard cost reimbursement. Based on these bids, the City did not want to move forward with this project and requested Lennar Buffington to investigate the possibility of an alternative construction method. Because of this new delay imposed by the City, Lennar Buffington made a request to perform a pump and haul program for 64 homes within the Property currently under construction. The City approved the pump and haul program in September 2006 with stipulations that limited the number of connections, set an expiration date and required the deposit of \$50,000. The pump and haul program was amended in April 2007 to allow up to 136 single-family homes. The actual pump and haul operations did not start until January 2007.

After months of work, Lennar Buffington submitted a wastewater design in the fall of 2006 that drastically reduced the length and number of bores and the depth of the proposed wastewater main. The primary change to the original design was the inclusion of an aerial wastewater crossing of Rinard Creek. Lennar Buffington worked with Watershed Protection and Development Review (WPDR) and the Utility on this design and after a number of concessions and requirements required by WPDR and the Utility then both Departments supported the design. The construction cost for this design is estimated at \$1,400,000. During the February 21, 2007 Environmental Board and the April 17, 2007 Zoning and Platting Commission hearings, the Board and Commission expressed some environmental concerns regarding the aerial wastewater crossing. On April 30, 2007 the City directed Lennar Buffington to abandoned the aerial design and investigate a subsurface design that will be the ultimate wastewater infrastructure to serve the entire Rinard Creek Basin.

The newly proposed wastewater main alignment will include approximately 650 feet of 18-inch gravity wastewater tunnel and 2,900 feet of 30-inch gravity wastewater tunnel from the existing Onion Creek Wastewater Treatment Plant southeast along the fairway of the Onion Creek Golf Course and under Rinard Creek to Bradshaw Road. This design proposes to avoid all Critical Environmental Features and only have minimal disturbance to the golf course. The proposed 30-inch gravity wastewater improvements have been identified as a required wastewater improvement to provide wastewater service to the Rinard Creek and a portion of the Onion Creek Drainage Basins.

The proposed amendment to the Wastewater Cost Reimbursement Agreement will allow for cost reimbursement to Lennar Buffington of the hard costs of the 18 and 30-inch gravity wastewater tunnel and appurtenances constructed within public right-of-way or easements for a total not to exceed \$3,696,000, and the costs for engineering, design and project management of the wastewater tunnel and appurtenances within public right-of-way or easements for a total not to exceed 15% of the hard costs or \$554,400, whichever is less, for a total not to exceed \$4,250,400 in one payment 90-days after final acceptance. Lennar Buffington will bear all other costs for financing, accounting, easements acquisition and legal services associated with this construction.

Lennar Buffington and the Utility are requesting a waiver of Section 25-9-67 of the City Code, relating to the schedule for cost reimbursement payments to permit the modified payment schedule of the wastewater tunnel improvements described above. Under Section 25-9-67 of the City Code, cost reimbursement payments are to be made in one payment on March 1 of the second year following the year in which the wastewater improvements are accepted.

The proposed amendment to the Wastewater Cost Reimbursement Agreement will also allow for cost reimbursement to Lennar Buffington for the original wastewater design and the aerial wastewater design for the professional services costs for engineering, design and project management ("soft costs") for a total not to exceed \$220,599, in one payment 30-days after execution of the amended agreement.

Lennar Buffington and the Utility are requesting a waiver of Section 25-9-63 of the City Code relating to the amount of cost reimbursement to allow for payment of both the hard and soft costs described above. Under Section 25-9-63 of the City Code, the amount of reimbursement is for the actual construction costs ("hard costs").

The proposed amendment to the Wastewater Cost Reimbursement Agreement will also allow for cost reimbursement to Lennar Buffington for 50% of the direct pump and haul costs from September 1, 2007 for a period of one year or the completion of the 18 and 30-inch gravity wastewater tunnel and appurtenances, whichever is sooner, for a total not to exceed amount of \$150,000, in monthly payments starting October 1, 2007.